

R.C.M. 802 issue, the Defense discussed the issue with trial counsel. The Defense informed the trial counsel that it believed that the speedy trial issues were only being preserved for the Court's consideration at that trial stage. The Defense was not arguing that the R.C.M. 707 issue should be preserved for appellate review. The Defense agrees that a plea of guilty waives any R.C.M. 707 speedy trial issue on appellate review. *See* R.C.M. 707(e) (such a waiver would not apply to an Article 10 motion). However, the R.C.M. 707(e) waiver should not be applied at the trial stage when the issue is still before the Court and the parties have agreed that any plea should not waive the issue for consideration by the Court. As such, even after an acceptance of a plea of guilty, this Court should still consider and rule on the litigated speedy trial motion.

5. Should the Court determine that it does not have the authority to preserve the R.C.M. 707 issue for its consideration after an accepted plea of guilty, the Defense would join the United States in requesting that any plea be considered after the Court rules on the litigated speedy trial motion. Given our current trial calendar, the Defense recommends that acceptance of a plea of guilty by PFC Manning be moved to the 14 to 18 January 2013 session.

CONCLUSION

6. The Defense requests the Court to preserve any speedy trial issues currently before the Court and accept PFC Manning's proffered pleas during the 10 to 14 December Article 39(a) session. If the Court does not believe it has the authority to preserve the R.C.M. 707 issue for its consideration after an accepted plea of guilty, the Defense requests that the acceptance of PFC Manning's plea be moved to the 14 to 18 January 2013 session.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Coombs', with a stylized flourish at the end.

DAVID E. COOMBS
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